

By: Truman

S.B. No. 1503

A BILL TO BE ENTITLED

AN ACT

relating to certificates of public convenience and necessity to provide water or sewer utility service to economically distressed areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 13.241, Water Code, is amended by adding Subsection (e) to read as follows:

(e) The commission shall develop a standardized method for determining under Section 13.246(f) which of two or more retail public utilities or water supply or sewer service corporations that apply for a certificate of public convenience and necessity to provide water or sewer utility service to an uncertificated area located in an economically distressed area is more capable financially, managerially, and technically of providing continuous and adequate service. In this subsection, "economically distressed area" has the meaning assigned by Section 15.001.

SECTION 2. Section 13.246, Water Code, is amended by amending Subsection (e) and adding Subsections (f) and (g) to read as follows:

(e) Where applicable, in addition to the other factors in this section the commission shall consider the efforts of the applicant to extend service to any economically distressed areas located within the service areas certificated to the applicant.

~~[For--the--purposes--of--this--subsection,--"~~economically-distressed

4-7-99

1 ~~area"-has-the-meaning-assigned-by-Section-15.001-]~~

2 (f) If two or more retail public utilities or water supply
3 or sewer service corporations apply for a certificate of public
4 convenience and necessity to provide water or sewer utility service
5 to an uncertificated area located in an economically distressed
6 area and otherwise meet the requirements for obtaining a new
7 certificate, the commission shall grant the certificate to the
8 retail public utility or water supply or sewer service corporation
9 that is more capable financially, managerially, and technically of
10 providing continuous and adequate service.

11 (g) In this section, "economically distressed area" has the
12 meaning assigned by Section 15.001.

13 SECTION 3. Section 13.381, Water Code, is amended to read as
14 follows:

15 Sec. 13.381. RIGHT TO JUDICIAL REVIEW; EVIDENCE. (a)
16 Except as provided by Subsection (b), any [Any] party to a
17 proceeding before the commission is entitled to judicial review
18 under the substantial evidence rule.

19 (b) A retail public utility or water supply or sewer service
20 corporation that is denied a certificate of public convenience and
21 necessity to provide water or sewer utility service to an
22 uncertificated area located in an economically distressed area on
23 the ground that another retail public utility or water supply or
24 sewer service corporation is more capable financially,
25 managerially, and technically of providing continuous and adequate
26 service may file a motion for rehearing as provided by Section
27 2001.146, Government Code. In this subsection, "economically

1 distressed area" has the meaning assigned by Section 15.001.

2 SECTION 4. This Act takes effect September 1, 1999, and
3 applies only to an application for a new certificate of public
4 convenience and necessity filed on or after the effective date of
5 this Act. An application for a new certificate of public
6 convenience and necessity filed before the effective date of this
7 Act is governed by the law in effect on the date the application
8 was filed, and that law is continued in effect for that purpose.

9 SECTION 5. The importance of this legislation and the
10 crowded condition of the calendars in both houses create an
11 emergency and an imperative public necessity that the
12 constitutional rule requiring bills to be read on three several
13 days in each house be suspended, and this rule is hereby suspended.

BILL ANALYSIS

Senate Research Center
76R6481 JJT-D

S.B. 1503
By: Truan
Border Affairs - Special
3/24/1999
As Filed

DIGEST

Currently, the Texas Natural Resource Conservation Commission does not differentiate between economically distressed areas and noneconomically distressed areas in the certification process of utilities or water supply or sewer service corporations. This bill would revise the method for selecting which utilities or water supply or sewer service corporations receive certification of public convenience and necessity in economically distressed areas.

PURPOSE

As proposed, S.B. 1503 revises the method for selecting which utilities or water supply or sewer service corporations receive certification of public convenience and necessity in economically distressed areas.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 13.241, Water Code, by adding Subsection (e), to require the Texas Natural Resource Conservation Commission (TNRCC) to develop a standardized method for determining under Section 13.246(f) which of two or more retail public utilities or water supply or sewer service corporations that apply for a certificate of public convenience and necessity to provide water or sewer utility service to an uncertified area located in an economically distressed area is more capable financially, managerially, and technically of providing continuous and adequate service. Defines "economically distressed area."

SECTION 2. Amends Section 13.246, Water Code, by amending Subsection (e) and adding Subsections (f) and (g), to delete the definition of "economically distressed area." Requires TNRCC to grant a certificate of public convenience and necessity (certificate) to the retail public utility or water supply or sewer service corporation that is more capable financially, managerially, and technically of providing continuous and adequate service, if two or more retail public utilities or water supply or sewer service corporations apply for a certificate to an uncertified area located in an economically distressed area and otherwise meet the requirements for obtaining a new certificate. Makes conforming changes.

SECTION 3. Amends Section 13.381, Water Code, to provide that any party to a proceeding before TNRCC is entitled to judicial review under the substantial evidence rule, except as provided by Subsection (b). Authorizes a retail public utility or water supply or sewer service corporation that is denied a certificate of public convenience and necessity to provide water or sewer utility service to an uncertified area located in an economically distressed area on the ground that another retail public utility or water supply or sewer service corporation is more capable financially, managerially, and technically of providing continuous and adequate service to file a motion for rehearing as provided by Section 2001.146, Government Code. Defines "economically distressed area." Makes conforming changes.

SECTION 4. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 5. Emergency clause.

By: Truan

S.B. No. 1503

(In the Senate - Filed March 12, 1999; March 15, 1999, read first time and referred to Special Committee on Border Affairs; April 7, 1999, reported favorably by the following vote: Yeas 6, Nays 0; April 7, 1999, sent to printer.)

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SECTION 2. Section 13.246, Water Code, is amended by amending Subsection (e) and adding Subsections (f) and (g) to read as follows:

(e) Where applicable, in addition to the other factors in this section the commission shall consider the efforts of the applicant to extend service to any economically distressed areas located within the service areas certificated to the applicant. [For-the-purposes--of--this--subsection,--"economically--distressed area"--has-the-meaning-assigned-by-Section-15.001-]

(f) If two or more retail public utilities or water supply or sewer service corporations apply for a certificate of public convenience and necessity to provide water or sewer utility service to an uncertificated area located in an economically distressed area and otherwise meet the requirements for obtaining a new certificate, the commission shall grant the certificate to the retail public utility or water supply or sewer service corporation that is more capable financially, managerially, and technically of providing continuous and adequate service.

(g) In this section, "economically distressed area" has the meaning assigned by Section 15.001.

SECTION 3. Section 13.381, Water Code, is amended to read as follows:

Sec. 13.381. RIGHT TO JUDICIAL REVIEW; EVIDENCE. (a) Except as provided by Subsection (b), any [Any] party to a proceeding before the commission is entitled to judicial review under the substantial evidence rule.

(b) A retail public utility or water supply or sewer service corporation that is denied a certificate of public convenience and necessity to provide water or sewer utility service to an uncertificated area located in an economically distressed area on the ground that another retail public utility or water supply or sewer service corporation is more capable financially, managerially, and technically of providing continuous and adequate service may file a motion for rehearing as provided by Section 2001.146, Government Code. In this subsection, "economically distressed area" has the meaning assigned by Section 15.001.

SECTION 4. This Act takes effect September 1, 1999, and applies only to an application for a new certificate of public convenience and necessity filed on or after the effective date of this Act. An application for a new certificate of public convenience and necessity filed before the effective date of this Act is governed by the law in effect on the date the application

2-1 was filed, and that law is continued in effect for that purpose.

2-2 SECTION 5. The importance of this legislation and the
2-3 crowded condition of the calendars in both houses create an
2-4 emergency and an imperative public necessity that the
2-5 constitutional rule requiring bills to be read on three several
2-6 days in each house be suspended, and this rule is hereby suspended.

2-7 * * * * *

FAVORABLE
SENATE COMMITTEE REPORT ON

(SB) SCR SJR SR HB HCR HJR 1503
By Truan
(Author/Senate Sponsor)
4-7-99
(date)

Sir:

We, your Committee on BORDER AFFAIRS, to which was referred the attached measure, have on 4-6-99, had the same under consideration and I am instructed to report it back with the recommendation (s) that it:

- ☒ do pass and be printed
☐ do pass and be ordered not printed
☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☒ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Lucio, Chair	<input checked="" type="checkbox"/>			
Senator Sibley, Vice-Chair	<input checked="" type="checkbox"/>			
Senator Bivins	<input checked="" type="checkbox"/>			
Senator Duncan			<input checked="" type="checkbox"/>	
Senator Shapleigh	<input checked="" type="checkbox"/>			
Senator Truan	<input checked="" type="checkbox"/>			
Senator Zaffirini	<input checked="" type="checkbox"/>			
TOTAL VOTES	<u>6</u>	<u>0</u>	<u>1</u>	<u>0</u>

COMMITTEE ACTION

S260 Considered in public hearing
S270 Testimony taken
Stephen R. Hoover
COMMITTEE CLERK

Lddie Lucio Jr
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill
Retain one copy of this form for Committee files

WITNESS LIST

SB 1503
SENATE COMMITTEE REPORT
Border Affairs - Special Committee

March 25, 1999 - 8:00A
THIS LIST HAS NO WITNESSES.

April 6, 1999 - 8:00A

Registering, but not testifying:

On: Blackhurst, Steve (Texas Natural Resource Conservation
Commission), Austin

BILL ANALYSIS

Senate Research Center
76R6481 JJT-D

S.B. 1503
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SECTION 4. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 5. Emergency clause.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 76th Regular Session

March 24, 1999

TO: Honorable Eddie Lucio, Chair, Senate Committee on Border Affairs

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1503 by Truan (Relating to certificates of public convenience and necessity to provide water or sewer utility service to economically distressed areas.), As Introduced

No significant fiscal implication to the State is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 360 State Office of Administrative Hearings, 582 Natural Resource Conservation Commission, 580 Water Development Board

LBB Staff: JK, DE, DM

S.B. No. 1503

By Truman

A BILL TO BE ENTITLED

AN ACT:

Relating to certificates of public convenience and necessity to provide water or sewer utility service to economically distressed areas.

MAR 12 1999

MAR 15 1999

APR 07 1999

Filed with the Secretary of the Senate

Read and referred to Committee on

SPECIAL COMMITTEE ON
BORDER AFFAIRS

Reported favorably

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by:

{ unanimous consent

{ ____ yeas, ____ nays

Read second time, _____, and ordered engrossed by:

{ unanimous consent
a viva voce vote

{ ____ yeas, ____ nays

Senate and Constitutional 3 Day Rule suspended by a vote of ____ yeas, ____ nays.

Read third time, _____, and passed by:

{ A viva voce vote

{ ____ yeas, ____ nays

SECRETARY OF THE SENATE

OTHER ACTION:

Engrossed

Sent to House

Engrossing Clerk _____

Received from the Senate

Read first time and referred to Committee on _____

Reported ____ favorably (as amended) (as substituted)

Sent to Committee on (Calendars) (Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of ____ yeas, ____ nays, ____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of ____ yeas, ____ nays, ____ present, not voting.

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of ____ yeas, ____ nays, ____ present, not voting)

Returned to Senate.

Returned from House without amendment.

Returned from House with ____ amendments.

Concurred in House amendments by a viva voce vote ____ yeas, ____ nays.

CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays